THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5528 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the action of the respondent in not changing the place of birth of the petitioner as Bombay instead of Hyderabad in her passport, as arbitrary and illegal.

The petitioner states that she is a citizen of India and was holding a passport No.V419688 issued at Hyderabad on 9.11.1995, which expired on 8.1.2005. It is further stated that actually she was born at Bombay on 18.10.1985 as evident from the birth Certificate issued by the Municipal Corporation of Greater Bombay. That apart, School Leaving Certificate dated 28.02.1990 issued by Girton High School, Grant Road, Bombay, also shows that the place of birth of the petitioner is Bombay. However, it appears that when an application was made for passport through an Agent, the place of birth of the petitioner was wrongly mentioned as Hyderabad, instead of Bombay, and consequently, in the passport the place of birth was shown as Hyderabad. It is stated that while taking steps for renewal of her passport, the petitioner realised the mistake crept in the passport about the place of birth, and requested the respondent to correct/rectify the said mistake. However, the respondent did not consider the same. Therefore, the petitioner was constrained to file W.P.No.21197 of 2005. The said writ petition was disposed of by this Court by order dated 30.09.2005 permitting the petitioner to make appropriate application before the respondent. In pursuance thereof, the petitioner made an application for grant of a fresh passport on 25.11.2005, enclosing the Birth Certificate issued by the Municipal Corporation of Greater Bombay as well as School Leaving Certificate issued by Girton High School, Grant Road, Bombay. However, the respondent by letter dated 3.03.2006 called upon the petitioner to furnish an order of the Court regarding change of place of birth. The said order is under challenge in this Writ Petition.

I have heard the learned counsel for the petitioner and perused the material on record.

Despite notice, the respondent did not choose to appear and no counter-affidavit has been filed.

It is to be noted that the Government of India, Ministry of External Affairs, issued circular dated 18.04.2001, which reads as under:

a. Where an applicant is seeking rectification/Correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, after the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

b. Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

c. Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth."

Having considered the above circular, this Court in **Ali Imran v. Regional Passport Officer, Secunderabad** held that as per the circular dated 18.04.2001, it is permissible to accept the applications for Rectification/correction of the entries in the passport.

The learned counsel for the petitioner submits that the correction of place of birth in the passport of the petitioner was only a technical correction, and therefore, it falls under clause (a) of the circular. In support of his submission the learned counsel relied upon the decision in **Asra Begum v. Regional Passport Officer, Secunderabad** .

Having regard to the facts and circumstances of the case and following the decision of this Court in **Ali Imran's case** (1 supra), the writ petition is disposed of with a direction to the respondent to consider the application of the petitioner in terms of the instruction/clarification issued in the circular dated 18.04.2001 and to pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of four weeks from the date of receipt of this order.

(G. ROHINI, J.)

28th April, 2006.

Kgr

Issue CC in two days.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.5528 OF 2006

28th April, 2006

Between:

Nianaaz Jehangir Darabna. .. Petitioner.

And

The Regional Passport Officer,

Station Road, Secunderabad. .. Respondent.